



# Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

COMMISSION ADJUDICATORY  
DOCKET NO. 515

## IN THE MATTER OF JAMES B. TRIPLETT

### DISPOSITION AGREEMENT

The State Ethics Commission ("Commission") and James Triplett ("Triplett") enter into this Disposition Agreement ("Agreement") pursuant to §5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, §4(j).

On May 25, 1993, the Commission initiated, pursuant to G.L. c. 268B, §4(j), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Triplett. The Commission has concluded its inquiry and, on December 14, 1994, found reasonable cause to believe that Triplett violated G.L. c. 268A, §23.

The Commission and Triplett now agree to the following findings of fact and conclusions of law:

1. At all times relevant here, Triplett served as the police chief in the Town of Oxford. As such, Triplett was a municipal employee as that term is defined in G.L. c. 268A, §1(g).
2. Triplett is an attorney, having been admitted to the Massachusetts Bar in 1988. With his admission to the Bar, Triplett began building a small practice as a private attorney, much of it involving Oxford clients.
3. From at least December 1991 until late December 1992, Triplett served as Barbara Kiley's attorney in her efforts to sell the property located at 51 Rocky Hill Road, Oxford. Triplett also served as Barbara Kiley's attorney in a contempt action brought against her in Worcester Probate Court for her failure to make mortgage payments on the 51 Rocky Hill Road property as required by a divorce judgment. Triplett filed his appearance in the contempt proceedings on June 17, 1992, the same date on which the proceedings were resolved with a judicial order holding Barbara Kiley responsible for the mortgage and tax payments on the property.
4. Beginning in February 1991 and ending in March 1993, Triplett was of counsel to the law firm Avis, Eden, Tolins & Rafferty. At some point prior to November 1991, Barbara Kiley of Oxford consulted Triplett as an attorney in connection with a possible personal injury case to be brought on behalf of her son Christopher. In November 1991, Triplett referred the personal injury case to Attorney Richard J. Rafferty, Jr. of Avis, Eden, Tolins & Rafferty. In June 1992, Triplett contacted Barbara Kiley and made arrangements to obtain another written statement from Christopher Kiley in connection with the personal injury case, the original statement having been lost. Christopher Kiley provided Triplett with the statement. On June 19, 1992, Triplett arranged to have the statement delivered to Rafferty.
5. On or about May 29, 1992, the house owned by Barbara Lafleche (formerly known as Barbara Kiley) and Donald LaFleche at 51 Rocky Hill Road burned down. As police chief, Triplett had overall responsibility for the Oxford Police Department's investigation of the fire at 51 Rocky Hill Road. The investigation determined that arson was the probable cause of the fire.
6. As police chief, Triplett assigned various police officers to conduct the investigation, in cooperation with the State Fire Marshall's office.
7. On December 4, 1992, as part of the police arson investigation, Triplett, along with a police detective, interrogated

Christopher Kiley at the police station. Kiley was a suspect and was read his rights, including his right to obtain an attorney. Kiley signed a statement indicating he understood his rights and then was interviewed by Triplett and the detective. The interview lasted approximately two hours. Triplett and the detective also interviewed a purported Kiley alibi witness on the same date.

8. Before participating in the arson investigation, Triplett made no disclosure to the Board of Selectmen regarding his above-described attorney-client relationship with Barbara Kiley or the fact that at some point prior to November 1991 he had consulted with Barbara Kiley regarding a potential personal injury case to be brought on behalf of her son Christopher, or that a law firm as to which he was of counsel was then representing Christopher Kiley regarding the suit, Triplett having referred the matter to that firm in November 1991.

9. General Laws c. 268A, §23(b)(3) prohibits a municipal employee from knowingly, or with reason to know, acting in a manner which would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence him, or unduly enjoy his favor in the performance of his official duties. Section 23(b)(3) further provides that it shall be unreasonable to so conclude if such employee has disclosed in writing to his appointing authority the facts which would otherwise lead to such a conclusion.

10. By participating as described above as police chief in the arson investigation (1) where Christopher Kiley was then a personal injury law client of a law firm with which Triplett served as of counsel, where Triplett had at some point prior to 1991 consulted with Barbara Kiley regarding Christopher Kiley's personal injury case and in November 1991 referred that matter to the firm, and, even after the arson investigation had started, Triplett assisted that firm regarding Christopher Kiley's lawsuit; and (2) where Kiley's mother was Triplett's law client regarding the sale of the property that was the subject of the investigation, and where he had also acted as her attorney in a court proceeding in June 1992 on a matter which also involved the property; Triplett knowingly acted in a manner which would cause a reasonable person to conclude that Christopher Kiley and his mother could unduly enjoy his favor in the performance of his official duties as police chief. By doing so, Triplett violated G.L. c. 268A, §23(b)(3).

## I.

11. Pursuant to G.L. c. 138, §56, chiefs of police have the responsibility to enforce the state laws regulating the sale of alcohol. Under this authority, Triplett supervises the enforcement of the state alcohol laws by causing to be conducted occasional enforcement actions and regular police inspections of Oxford's alcohol establishments. In addition, during the time relevant herein, Triplett would report to the Board of Selectmen as to each barroom which was authorized a late (2:00 A.M.) closing. The Board's renewal of that late closing privilege would depend significantly on whether any license violations, noise complaints and so forth were reported for the prior six months.

12. Bolero II, Inc. holds an Oxford alcohol license and does business as "Manny's" at 124 Main Street, Oxford. At all times relevant herein, Manny's was one of the largest bars in Oxford, and it had a late closing privilege (along with all other bars in Oxford that had requested the privilege).

13. On January 20, 1990, Lisa DeJesus was injured while a patron at Manny's. As a result of her injury, DeJesus brought a lawsuit against Bolero II, Inc. on June 25, 1990. Between June 1991 and January, 1992, Triplett helped represent Bolero II, Inc. in its defense of the lawsuit, by assisting in its responses to discovery requests filed by DeJesus and in arranging meetings with various witnesses.

14. Emanuel Leo is the manager of Manny's. Leo is also the president, director and owner of Bolero II, Inc.

15. From 1989 to 1991, Triplett served as Leo's attorney in four real estate transactions.

16. On November 27, 1989, the Ethics Commission advised Triplett in writing that in order to avoid violating the conflict of interest law he should disclose to his appointing authority, the Board of Selectmen, his legal representation of any town business people who held licenses subject to his jurisdiction.

17. Triplett made no disclosure of his representation of Leo and Bolero, II, Inc. to the Oxford Board of Selectmen.

18. By being in a position to direct and, in fact, on several occasions directing police department actions in connection with the enforcement of liquor and other laws affecting Manny's, all while he had a significant private

attorney-client relationship with Bolero II, Inc. and Leo, Triplett knowingly acted in a manner which would cause a reasonable person to conclude that Leo and Bolero II, Inc. could unduly enjoy his favor in the performance of his official duties as police chief. By doing so, Triplett violated G.L. c. 268A, §23(b)(3).

## **II.**

19. Lullman Paradis Funeral Home, Inc. is a corporation which does a funeral home business in Oxford. It is substantially owned by Diane Paradis.

20. Triplett served as attorney for Diane Paradis and Lullman Paradis Funeral Home, Inc. in 1989 and was paid for those services on February 14, 1990.

21. In August 1990, Paradis and Lullman Paradis Funeral Home, Inc. submitted a site plan to the Oxford Planning Board for an expansion of the funeral home's parking lot.

22. On August 27, 1990, the Planning Board conducted a public hearing on the parking lot expansion matter<sup>1/</sup> and Triplett testified in his capacity as police chief that the funeral home's parking lot expansion would promote public safety by getting traffic off the street.<sup>2/</sup>

23. During his remarks, Triplett failed to disclose his attorney-client relationship with Paradis and the Lullman Paradis Funeral Home, Inc.

24. By speaking in his capacity as police chief at the Planning Board hearing regarding the funeral home's parking lot plans, and failing to disclose his attorney-client relationships with the funeral home and Paradis, Triplett knowingly acted in a manner which would cause a reasonable person to conclude that Paradis and Lullman Paradis Funeral Home, Inc. could unduly enjoy his favor in the performance of his official duties as police chief. By doing so, Triplett violated G.L. c. 268A, §23(b)(3).

In view of the foregoing violations of G.L. c. 268A by Triplett, the Commission has determined that the public interest would be served by the disposition of these matters without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Triplett:

(1) that Triplett pay to the Commission the sum of two thousand dollars (\$2,000) as a civil penalty for his course of conduct in violating G.L. c. 268A, §23(b)(3); and

(2) that Triplett waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

**DATE: April 3, 1996**

<sup>1/</sup> Paradis and the funeral home were represented at this hearing by Oxford attorney Frank Morgan.

<sup>2/</sup> This testimony was consistent with a safety report prepared by the police department safety officer.